

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE STATE OF IOWA, ACTING BY AND THROUGH THE GOVERNOR  
AND  
The Greater Cedar Valley Alliance**

**THIS MEMORANDUM OF UNDERSTANDING** ("MOU"), is effective as of February 17, 2010, and is made by and between **THE STATE OF IOWA, ACTING BY AND THROUGH THE GOVERNOR** ("State"), and **The Greater Cedar Valley Alliance** ("Great Place").

In furtherance of the purposes, privileges and obligations in the Great Places program ("Program"), created on January 11, 2005, by Governor Thomas J. Vilsack's Executive Order 39 and legislatively implemented in Iowa Code 303.3C (2005) and Iowa Code 303.3D (2006), the parties hereby enter into this MOU. In consideration of the mutual covenants contained in this MOU, the sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. PURPOSE.** The purpose of this MOU is to assist the Great Place in the cultivation of the unique aspects of its community for the benefit of its citizens and the State, and to outline the areas where the State and the agencies and boards under the direction and control of the State ("Agencies" and "Boards") may assist the Great Place in accomplishing the objectives specified in the Great Place's proposal dated January 18, 2010 ("Proposal"). The State hereby delegates to the Director of the Department of Cultural Affairs ("Director") the responsibility for planning, developing and executing the Program, and the power and authority to negotiate, execute, modify and extend this MOU, the Grant Agreement, the Proposal, and the Project Plan and Projects (as hereinafter defined).

**SECTION 2. IDENTIFICATION AND INCORPORATION OF PROJECT PLAN.**

**2.1** When used in this MOU, the term "Project Plan" refers to the separate document outlining each proposed project ("Project") in the Proposal and the steps, if any, that the Great Place and any appropriate Agencies or Boards may take in furtherance of each Project.

**2.2** The Project Plan negotiated for this Great Place is attached hereto as Exhibit A and is hereby incorporated into and made a part of this MOU by this reference as if the Project Plan was fully set forth in this MOU. The parties may jointly agree to amend, supplement, or modify the Project Plan, either through an amendment to this MOU or in connection with a Project for which funds are granted pursuant to a Grant Agreement entered into by the parties, as defined and described in Section 3 hereof.

**2.3** The Great Place understands and acknowledges that a commitment by the State, an Agency, Board, or other entity to assist the Great Place in the identification or application for funding or financial assistance in the Project Plan or elsewhere in this MOU does not in any way constitute a guarantee that the Great Place will receive the requested funding or financial assistance.

**2.4** The Great Place understands and acknowledges that a commitment by the State, an Agency, Board or other entity to consider or review legislative or regulatory changes does not constitute a guarantee that the desired changes will ultimately be enacted or adopted.

**SECTION 3. GRANT AGREEMENT.** As a condition precedent to receiving legally available funds, if any, from the Iowa Great Places Program Fund ("Grant Funds"), the Great Place shall be required to execute an Iowa Great Places Grant Agreement in the form provided by the Department of Cultural Affairs ("Grant Agreement"), for each Project for which monies from the Grant Funds are sought by the Great Place. In addition, the Great Place agrees to record, at its expense, a recordable copy of the Grant Agreement with the county recorder in the county where the Project property is located.

**SECTION 4. RESPONSIBILITIES OF THE STATE.** Pursuant to this MOU, the State agrees to do the following:

**4.1** The State shall direct Agencies and Boards to undergo the tasks assigned to them pursuant to the Project Plan.

**4.2** The State, through the efforts of the Department of Cultural Affairs, shall endeavor to identify and, in its discretion and if appropriate and feasible, remove legislative or administrative obstacles to the accomplishment of the objectives outlined in the Proposal.

**4.3** Nothing in this MOU shall obligate the State to provide Grant funds for any Project; any obligation of the State to provide funding shall be governed by and subject to the terms of the Grant Agreement.

**SECTION 5. RESPONSIBILITIES OF THE GREAT PLACE.** Pursuant to this MOU, the Great Place agrees to do the following:

**5.1** The Great Place shall implement the Projects pursuant to the Project Plan, except that nothing in this MOU shall require or obligate the Great Place to follow through on a Project that the Great Place decides not to pursue or for which Grant funds have not been obtained.

**5.2** The Great Place shall work with the Director and staff of the Department of Cultural Affairs to propose and prepare amendments to the Project Plan.

**5.3** To the extent that the Great Place or its agents have previously received grants or assistance from the State, a Board or Agency, the Great Place and its agents shall fulfill those prior obligations. The Great Place acknowledges that failure to completely fulfill the Great Place's outstanding obligations for prior Board or Agency assistance may hinder or preclude further assistance.

**5.4** If the Great Places is a private entity, no Grant funds will be issued to the Great Places unless and until a political subdivision of the State agrees to serve as a fiscal agent for receipt and disbursement of Grant Funds and executes the Grant

Agreement. The political subdivision shall be responsible for complying with, and for ensuring the Great Place's compliance with, all terms and conditions of the Grant Agreement. If the Great Place is a political subdivision of the State but identifies a private entity acceptable to the State to implement the Project, the Great Place shall serve as fiscal agent for receipt and disbursement of Grant Funds to the private entity and shall execute the Grant Agreement as recipient and as a guarantor of the performance of the private entity.

**SECTION 6. DURATION.** This MOU shall become effective on February 17, 2010 and shall be in effect for a period of three (3) years ("Term").

**SECTION 7. TERMINATION FOR CAUSE.**

**7.1** The failure by the Great Place to make substantial, timely progress toward performance of the obligations in the Project Plan may constitute grounds for default. However, an inability to complete a proposed Project due to the failure to obtain necessary funding shall not be grounds for default under this MOU.

**7.2** If there is a default event, the State shall provide written notice to the Great Place requesting that identified breaches or noncompliance be remedied. Such notice shall state the date by which the breaches or noncompliance must be remedied. In the event that the breaches or noncompliance continue to be evidenced beyond the date specified in the written notice, the State may at its option:

**7.2.1** Immediately terminate the MOU without additional written notice and without penalty; or

**7.2.2** Unilaterally revise the MOU or the Project Plan to remove or otherwise modify or affect the obligations of the Great Place and the State with respect to the area of breach or noncompliance.

**SECTION 8. TERMINATION FOR LACK OF FUNDS OR CHANGE IN LAW.**

**8.1** Notwithstanding anything in this MOU to the contrary, and subject to the limitations, conditions, and procedures set forth below, the State shall have the right to terminate this MOU without penalty and without future obligation, by giving thirty (30) days written notice to the non-terminating party as a result of any of the following:

**8.1.1** The State Legislature fails to appropriate funds sufficient to allow the Great Place, the State, the Department of Cultural Affairs, or any Agency or Board identified in the Project Plan to meet obligations under this MOU, the Project Plan, or the Grant Agreement;

**8.1.2** The Great Places Program legislation, currently codified as Iowa Code 303.3C and 303.3D, is repealed or substantially modified; or

**8.1.3** There is a decision of any court or an arbitration panel, or any law, rule, regulation or executive order is enacted, promulgated or issued, that materially affects the ability of the Great Place, the State or the Department of Cultural Affairs to fulfill its obligations under this MOU or the Grant Agreement or under Iowa Code 303.3C or 303.3D.

**SECTION 9. TERMINATION DUE TO GREAT PLACE'S ELECTION.** Through the provision of thirty (30) days written notice, the Great Place may forego its status as an Iowa Great Place. If the Great Place chooses to do so, the Great Place acknowledges that it will no longer be eligible for assistance which depends in whole or in part on the Great Place's status as a designated Great Place. If a Great Place chooses to forego its status as an Iowa Great Place, the Great Place relieves the State, its Agencies and Boards from further obligations or responsibilities under this MOU and the Project Plan. By acting in such a manner, the Great Place likewise is relieved of further obligation under this MOU and the Project Plan.

**SECTION 10. EFFECT OF TERMINATION.** Termination of this MOU under the terms of Sections 7, 8 or 9 hereof shall not operate to terminate any Grant Agreement the Great Place may have entered into with the State, nor shall termination of the MOU override, remove or otherwise affect any responsibility or obligation that the Great Place or its agents may have agreed to assume either under a Grant Agreement or as a condition to receipt of any other grant award or other assistance.

**SECTION 11. CONTRACT ADMINISTRATION.**

**11.1 Amendments.** This MOU may be amended in writing from time to time by mutual consent of the Director and the Great Place. All amendments to this MOU must be fully executed by the Director and the Great Place.

**11.2 Third Party Beneficiaries.** There are no third party beneficiaries to this MOU. This MOU is intended only to benefit the State and the Great Place.

**11.3 Assignment and Delegation.** This MOU is premised upon the Great Places designation granted to the Great Place. Accordingly, this MOU may not be assigned, transferred or conveyed in whole or in part.

**11.4 Integration.** This MOU, and any documents incorporated herein by reference, represents the entire agreement between the parties. The Great Place represents and agrees that it is not relying on any representations or covenants of the State except for those expressly included in this MOU or in any Grant Agreement.

**11.5 Not a Joint Venture.** Nothing in this MOU shall be construed as creating or constituting the relationship of a partnership, joint venture, or other association of any kind between the parties hereto. Neither party shall have the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon the other party to this MOU.

**11.6 Use of Third Parties.** The Great Place acknowledges that the State, its Agencies or Boards may contract with third parties for the performance of any of State's obligations under this MOU or the Project Plan.

**11.7 Delay or Impossibility of Performance.** A party shall not be considered to be in default under this Agreement if performance is delayed or made impossible by an act of God, flood, fire, or other similar events beyond its control.

**11.8 Notices.** Any notices provided pursuant to this MOU shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of mailing such notice.

If to the State:                      Department of Cultural Affairs  
State Historical Building  
Attn: Director  
600 E. Locust St.  
Des Moines, IA 50319

With a copy to:                      Governor, State of Iowa  
Attn: General Counsel  
State Capitol  
Des Moines, IA 50319

If to the Great Place:              Greater Cedar Valley Alliance  
Attn: Kevin Blanshan  
229 East Park Avenue  
Waterloo, IA 50703

**11.9 Severability.** If any provision of this MOU is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this MOU.

**11.10 Counterparts.** The parties agree that this MOU has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**11.11 Governing Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this MOU without regard to the choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this MOU, the proceeding shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if such court has jurisdiction. If however, such court lacks jurisdiction and jurisdiction lies only

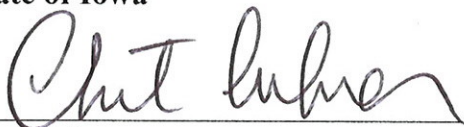
in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division.

This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to DCA or the State of Iowa.

## SECTION 12. EXECUTION

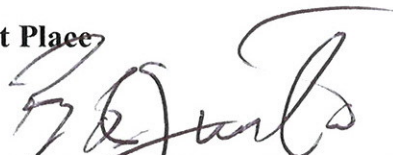
**IN WITNESS WHEREOF**, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives to execute this Agreement.

**State of Iowa**


  
Chet Culver  
Governor, State of Iowa

Date: February 17, 2010


**Great Place**

  
Bob Justis  
For Greater Cedar Valley Alliance


Date: February 17, 2010

  
Ernest G. Clark  
Mayor, City of Waterloo

Date: February 17, 2010

  
Jon Crews  
Mayor, City of Cedar Falls

Date: February 17, 2010

  
Jeffrey Kurtz  
Director, Cedar Falls Historical Society

Date: February 17, 2010

**EXHIBIT A-Project Plan (to be attached)**